

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**DECARLOS SCOTT, # M-34683,**

**Plaintiff,**

**vs.**

**VIENNA CORRECTIONAL CENTER,**

**Defendant.**

**Case No. 13-cv-681-JPG**

**MEMORANDUM AND ORDER**

**GILBERT, District Judge:**

This matter comes before the Court for case management. By Order dated August 6, 2013 (Doc. 7), this Court dismissed Plaintiff's complaint, but gave him leave to file an amended complaint by September 10, 2013, if he wished to further pursue his claims. In that Order, Plaintiff was warned that if he failed to submit an amended complaint by September 10, his case could be dismissed with prejudice. That deadline has now passed, and Plaintiff has not filed an amended complaint, nor has he taken any other action to prosecute this matter.

**IT IS THEREFORE ORDERED** that this action is **DISMISSED with prejudice** for failure to state a claim upon which relief may be granted.

The dismissal of this action shall count as one of Plaintiff's three allotted "strikes" within the meaning of 28 U.S.C. § 1915(g). Plaintiff's obligation to pay the filing fee for this action was incurred at the time the action was filed, thus the remainder of the filing fee of \$350.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

If Plaintiff wishes to appeal this dismissal, he may file a notice of appeal with this Court within thirty days of the entry of judgment. FED. R. APP. P. 4(a)(1)(A). A motion for leave to appeal *in forma pauperis* should set forth the issues Plaintiff plans to present on appeal. *See* FED. R. APP. P. 24(a)(1)(C). If Plaintiff does choose to appeal, he will be liable for the \$455.00 appellate filing fee irrespective of the outcome of the appeal. *See* FED. R. APP. P. 3(e); 28 U.S.C. § 1915(e)(2); *Ammons v. Gerlinger*, 547 F.3d 724, 725-26 (7th Cir. 2008); *Sloan v. Lesza*, 181 F.3d 857, 858-59 (7th Cir. 1999); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998). Moreover, if the appeal is found to be nonmeritorious, Plaintiff may also incur another “strike.” A timely motion filed pursuant to Federal Rule of Civil Procedure 59(e) may toll the 30-day appeal deadline. FED. R. APP. P. 4(a)(4).

The Clerk shall **CLOSE THIS CASE** and enter judgment accordingly.

**IT IS SO ORDERED.**

**DATED: September 30, 2013**

*s/J. Phil Gilbert*  
United States District Judge